

US EPA RECORDS CENTER REGION 5



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COURT DOCUMENT
AGREED JUDGEMENT

RICHARD W. ROGERS
ATTORNEY AT LAW
Licensed in Indiana and Illinois

February 15, 2016

Re: FFSB v. Swift et al., 20C01-1512-CC-001361

Clerk of the Circuit Court
Elkhart County Courthouse
101 North Main Street, # 204
Goshen, IN 46526

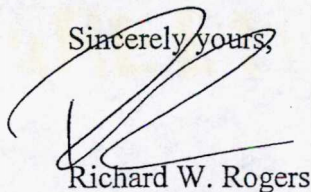
FILED
MAR 07 2016
CLERK ELKHART
CIRCUIT COURT

Dear Clerk:

Please find enclosed for filing in the above my "appearance" for responding parties, Richard L. Swift, Clarice K. Swift, and Michiana Recyclers, Inc. I have included an additional copy of same and SASE for your use in mailing me back a file-marked copy.

Thank you in advance for your cooperation and assistance.

Sincerely yours,



Richard W. Rogers

RWR/

Encls.

CC: Robert L. Nicholson w/ Encl.
Richard L. Swift w/ Encl.

STATE OF INDIANA)	IN THE ELKHART CIRCUIT/SUPERIOR COURT
) SS:	
COUNTY OF ELKHART)	CAUSE NO. 20C01-1512-CC-001361
FIRST FEDERAL SAVINGS BANK)	
)	
Plaintiff,)	
)	
vs.)	
)	
RICHARD L. SWIFT, CLARICE K.)	
SWIFT and MICHIANA RECYCLERS, INC.)	
)	
Defendant.)	

AGREED JUDGMENT

Now comes Plaintiff, First Federal Savings Bank ("FFSB"), by counsel, and Defendants, Richard L. Swift, Clarice K. Swift and Michiana Recyclers, Inc. (collectively the "Swift Defendants"), by counsel, and file this Agreed Judgment as follows:

1. The Swift Defendants were duly and legally served with Alias Summons, a copy of the Complaint, and a Motion for Pre-Judgment Possession on February 9, 2016, via a private process server.

2. The Swift Defendants further confirm that they are not in the military service and are not under any legal disability.
3. On December 19, 2014, the Swift Defendants executed and delivered to FFSB a promissory note (the "Note") in the original principal amount of \$105,153.38.
4. The Note matured on June 15, 2015.
5. As of February 29, 2016 there was due and owing on the Note the sum of \$122,773.26 (the "Current Balance"), comprised of principal in the amount of \$103,933.88, interest in the amount of \$7,347.45, late charges of \$5,247.33, attorney's fees in the amount of

\$1,151.00 and other charges in the amount of \$4,356.29. Interest continues to accrue at the rate of \$17.32 per diem.

6. To secure repayment of the Note, the Swift Defendants executed a number of security agreements (the "Security Agreements").

7. The Security Agreements granted to FFSB security interests in certain collateral (the "Collateral") owned by the Debtors including but not limited to:

a. ALL ACCOUNTS, INVENTORY AND EQUIPMENT INCLUDING BUT NOT LIMITED TO:

- i. 1993 GMC VIN #4V2JCBME7PR821886
- ii. 1985 INTERNATIONAL HD VIN #1HSZJJWR1FHA32220
- iii. 1985 INTERNATIONAL VIN #1HTLDTVMXFHA46899
- iv. 1989 GMC VIN #1GDE6DIF1KV519171
- v. 2011 JOHN DEERE EXCAVATOR 200D SERIAL #1FF200EXPB512663-200
- vi. NEW HOLLAND SKID LOADER MODEL L170 SERIAL #N7M4564761
- vii. CAT FORK LIFT MODEL T50C SERIAL #87W778

b. ALL INVENTORY, ACCOUNTS, GENERAL INTANGIBLES, CONSUMER GOODS, AND EQUIPMENT INCLUDING BUT NOT LIMITED TO:

-
- i. 1990 KOMATSU CRAWLER MOUNTED HYDRAULIC EXCAVATOR MODEL PC400LC-3 WITH STEEL BELT TRACKS S/N #13171
 - ii. 1986 CATERPILLAR DOZER MODEL D6D WITH STEEL BELT TRACKS S/N #6X521-BN70866

8. The Security Agreements were perfected in Indiana by the filing of a UCC financing statement with the Indiana Secretary of State on January 23, 2013, and in Michigan by the filing of a UCC financing statement with the Michigan Secretary of State, Uniform Commercial Code office on January 23, 2013.

9. In addition, Borrowers delivered to FFSB the titles to certain vehicles, including but not limited to items i., ii., iii., and iv. listed above in paragraph 7.a. above (the "Vehicles"). collectively the Collateral and the Vehicles are referred to as the "Property").

Based on the foregoing, the parties agree that judgment shall be issued in favor of FFSB and against the Swift Defendants as follows:

A. FFSB is hereby awarded a personal judgment against Richard L. Swift, Clarice K. Swift, and Michiana Recyclers, Inc. an Indiana corporation, jointly and severally, in the amount of \$122,035.95 as of February 29, 2016, together with interest at the rate of \$17.32 *per diem* from and after February 29, 2016, until the date of judgment, and post judgment interest at the statutory rate of 8% from the date of judgment until the balance of the judgment is satisfied, attorney's fees and all other costs and expenses of any nature incurred by FFSB in connection with this proceeding including repossession costs, the disposition of the property before and after sale, and collection of any deficiency balance due:

B. That FFSB is awarded final possession of the Property, and said right of possession is superior to any and all Defendants;

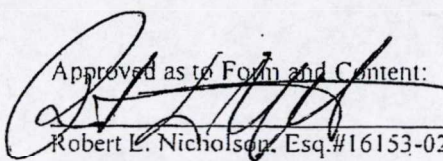
C. That a commercially reasonable disposition of the Property is approved with the proceeds to be applied first to the costs of repossession and sale, and then toward satisfaction of the indebtedness owed to FFSB under the Judgment;

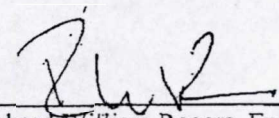
D. That any sale of the Property is declared to be conducted without relief from valuation and appraisal laws; and

E. That Michiana Recyclers, Inc., Richard L. Swift and Clarice K. Swift, jointly and severally, shall remain liable for any deficiency.

AGREED TO THIS ____ DAY OF MARCH, 2016.

Approved as to Form and Content:



Robert L. Nicholson, Esq. #16153-02
CARSON BOXBERGER LLP
301 W. Jefferson Blvd. #200
Fort Wayne, IN 46802
(260) 423-9411
Attorneys for Plaintiff


Richard William Rogers, Esq.
P O Box 1142
Middlebury, Indiana 46540-1142
(574) 825-9441
Attorney for Defendants

The parties have consented by signature above, and the Court being duly advised, hereby enters judgment accordingly.

SO ORDERED.

Dated: MARCH 8, 2016


Judge, Elkhart Circuit Court

NOTICE IS TO BE GIVEN BY:

 COURT X CLERK PARTY OTHER

PROOF OF NOTICE UNDER TRIAL RULE 72(D):

A copy of this entry was served either by mail to the address of record, deposited in the Court's attorney's distribution box, distributed personally upon the persons and/or filed as listed below:

Robert L. Nicholson, Esq.
Carson Boxberger LLP
301 W. Jefferson Blvd. #200
Fort Wayne, Indiana, 46802

Richard William Rogers, Esq.
P O Box 1142
Middlebury, Indiana 46540-1142

DATE OF NOTICE: _____

INITIALS OF PERSON WHO NOTIFIED PARTIES:

 COURT CLERK PARTY OTHER